



Legislative Research Council

RULES REVIEW COMMITTEE MINUTES

**Two Hundred Forty-fourth Meeting
Tuesday
December 2, 2003**

**Room 413
State Capitol Building
Pierre, South Dakota**

The two hundred forty-fourth meeting of the Rules Review Committee was called to order by Chair Senator Royal "Mac" McCracken at 9:05 a.m., December 2, 2003, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Eric Bogue, H. Paul Dennert, and Royal "Mac" McCracken; and Representatives Richard Engels, Jean Hunhoff, and Orville Smidt.

Staff members present included Doug Decker, Code Counsel, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council. For the purpose of continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

Representative Smidt moved, seconded by Representative Engels, that the minutes of the November 14, 2003, meeting be approved. Motion prevailed unanimously on a voice vote.

Staff Report

Mr. Decker distributed a rough draft of a bill entitled *An Act to revise when an administrative rule adoption or amendment is complete* (**Document #1**). The proposed bill will delete the ten-day waiting period as required in SDCL 1-26-6(1).

Senator Dennert moved, seconded by Representative Smidt, that the proposed bill, An Act to revise when an administrative rule adoption or amendment is complete, be introduced as a committee bill. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Dennert, Engels, Hunhoff, McCracken, and Smidt. Excused: Bogue.

Agenda Revised

Chair McCracken stated that because the committee had not received copies of the proposed rules from the Department of Agriculture and the Department of Social Services,

these rules would be held over until the next interim Rules Review Committee meeting on January 12, 2004.

Mr. Decker stated that the Department of Labor: Board of Accountancy requested to be placed on the January 12, 2004, agenda.

Rules Reviewed

Department of Game, Fish and Parks - Amend rules that will permit uncased .22 caliber firearms year around on GFP designated rifle ranges at North Point and Oahe Downstream Recreation Areas and prohibits uncased firearms and bows year around in certain areas of Bear Butte State Park; increase the entrance license fee for persons occupying commercial motor coaches; change the designation of the fee applicable at Richmond from "modern" to a "preferred" campground; require boat operators to have on board a Coast Guard-approved wearable personal flotation device for each person being towed on certain devices unless the person being towed has possession of a wearable Coast Guard-approved personal flotation device; permit a migratory bird certification "permit" to be in the form of an "authorization code" and clarifies that if the permit is a "stamp," the stamp must be on the hunting license; change from 4 weeks of age to 6 weeks as the time when game birds propagated, possessed, or released on a private shooting preserve must be appropriately marked; complete revision of and amendments to the chapter formerly known as "Domestication of Wild Species" and now known as "Captive Game Birds"; prohibit high-grading of trout in the Black Hills Trout Management Area and prohibit high-grading of bluegill in Campbell Slough; extend the date when an ice fishing shelter must be removed from Deerfield Lake; Newell Lake (largemouth bass) impose a 12-16 inch protected size restriction and establish a daily possession limit to include no more than one 16 inches or longer; Campbell Slough (smallmouth and largemouth bass) impose an 18 inch minimum size restriction and a daily possession limit of one; impose a 15 inch size restriction for largemouth and smallmouth bass in Stockade and New Underwood Lakes; impose a 14 inch minimum size restriction for walleye, sauger, and walleye-sauger hybrid at Campbell Slough, Curlew Lake, and Newell Lake; impose a 10 fish (bluegills and sunfish [or combination thereof], crappies, and perch) daily possession limit at Twin and Mud Lakes in Spink, Grant, and Roberts counties (except the Minnesota/SD boundary waters); clarify that no more than one of the northern pike taken daily from LaCreek National Wildlife Refuge may be 36 inches or greater in length and modify the possession limit; and impose the minimum size restriction for walleye, sauger, and walleye-sauger hybrid from 16 inches to 14 inches at Waubay Lake; open the bullfrog season all year long; prohibit taking turtles that are on the state list of endangered reptiles; modifies the species contained in the list of biological specimens that may be taken for commercial purposes and lawful anglers, and limits the possession by lawful anglers of any listed species to a daily limit of 15 each and possession limit of 30 each; repeal the resident, nonresident, and nonresident family fishing licenses for Lake Oahe; reduce the daily limit of walleye, sauger, and walleye-sauger hybrid on Lake Oahe to 6 daily and 18 in possession and prohibit the daily taking of more than one which is 20 inches or greater in length (was 18 inches); establish a daily limit of 3 walleye, sauger, walleye-sauger hybrid on Lake Sharpe and on Lake Francis Case and the Missouri River downstream from Fort Randall Dam approximately 3 miles to the Nebraska border; and prohibit the taking of bait

and biological specimens on the Missouri River below Gavins Point Dam.

Mr. Doug Hofer and **Mr. Doug Hansen** reviewed the proposed rules.

With regard to life preserves, Mr. Hansen requested that the following correction be made on page 12, line 9 - delete "boat" and insert "board". Committee and staff concurred.

With regard to 41:09:02:02(2), Senator Bogue inquired if the commercial captive game bird license would be required for nonresidents if you purchased processed birds out-of-state. Following discussion, it was decided that the word "processed" should not be included in this rule.

Senator McCracken moved, seconded by Representative Hunhoff, with the exception of 41:09:02:02, to approve the rules proposed by the Department of Game, Fish and Parks. Motion prevailed unanimously on a roll call vote, with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Senator Bogue moved, seconded by Senator McCracken, to refer 41:09:02:02 proposed by the Department of Game, Fish and Parks back for further clarification with regard to the commercial captive game bird license. Motion prevailed unanimously on a roll call vote, with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Department of Labor: State Plumbing Commission - Repeal the 1996 National Standard Plumbing Code and amendments and adopt the 2003 Uniform Plumbing Code with amendments.

Mr. Mike Richards reviewed the proposed rules.

Senator Dennert moved, seconded by Senator McCracken, to approve the rules proposed by the Department of Labor: State Plumbing Commission. Motion prevailed unanimously on a roll call vote, with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Department of Environment and Natural Resources: Board of Water and Natural Resources - Amend rules to move Loomis Township from Central Plains Water Development District Rural Director Area 4 to Rural Director Area 2; to use 2000 census data rather than the 1990 census data to award priority points for population; to allow the Board of Water and Natural Resources more flexibility in the type of projects that can receive water quality grants; to use median household income data from the 2000 census rather than use non-metropolitan median household income data from the 1990 census data to determine affordability criteria and disadvantaged community eligibility; to adjust the affordability criteria to reflect more recent census data; to quantify the criteria for awarding priority points for projects developing new sources of water supply; to change the basis for awarding points from having less than a peak day demand to an average day demand; and to use 2000 census data rather than the 1990 census data to award priority points for population.

Mr. Mike Perkovich reviewed the proposed rules. With regard to 74:05:11:06, the reference did not inform the public where a copy may be obtained and what the cost is for the publication. Mr. Perkovich was asked by the committee to make this correction to the reference before filing the rules with the Secretary of State.

Senator Bogue moved, seconded by Representative Smidt, to approve the rules proposed, with the proposed correction, by the Department of Environment and Natural Resources: Board of Water and Natural Resources. Motion prevailed unanimously on a roll call vote, with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.

Committee Discussion

Following committee discussion, *Senator Bogue moved, seconded by Senator Dennert, that staff draft proposed legislation that will require that agencies seek approval of proposed rules from the Rules Review Committee rather than just present the rules prior to filing with the Secretary of State. Motion prevailed unanimously on a roll call vote, with 6 ayes. Members voting aye: Bogue, Dennert, Engels, Hunhoff, McCracken, and Smidt.*

Representative Hunhoff requested that agencies include an addendum to the minutes that states the changes made to the final draft. Senator Bogue requested that their packets be three-hole punched.

The next Rules Review Committee meeting is scheduled for Monday, January 12, 2004.

The chair adjourned the meeting at 10:50 a.m.



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